

OGC HAS REVIEWED.

20 February 1951

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Returned herewith are several papers concerning your retirement from the Army.

After examining your case, it is our opinion that you can be appointed to a civilian position with this Agency without violating the provisions of Title 5, Section 62 of the U. S. Code. This law prohibits appointment of retired officers to such a position, but it specifically exempts officers retired for "incapacity incurred in the line of duty."

Another provision of the U. S. Code, Title 5, Section 59a, provides that if your retired rate of pay exceeds \$3,000 per annum, you shall be entitled to receive either the pay of the civilian position or the retired pay, whichever you may elect. This law does not apply to officers retired for disability incurred in combat with an enemy of the United States, or for disabilities resulting from an explosion of an instrumentality of war in line of duty. To come within this exception, it will be necessary to establish a direct causal relationship between your disability and enemy action or such explosion. If there is any problem in this regard, it will be settled by the Office of the Adjutant General, since that office handles your retirement pay.

If I can be of any further assistance, please do not hesitate to inform me.

LAWRENCE R. HOUSTON
General Counsel

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cc: Chrono
Subject